



PATENT
Docket No. 56545US007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	BEDINGHAM, et al.)	Group Art Unit:	1743
)		
Serial No.:	10/808,124)	Examiner:	Lyle Alexander
Confirmation No.:	4531)		
)		
Filed:	24 March 2004)		
)		
For:	<u>MULTI-FORMAT SAMPLE PROCESSING DEVICES, METHODS AND SYSTEMS</u>			

RESPONSE

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

The Office Action of 28 February 2007 has been received and reviewed. No claims have been amended, canceled, or added. Therefore, claims 1-19 are pending. Reconsideration and withdrawal of the rejections are respectfully requested as discussed below.

Obviousness-Type Double Patenting Rejection

Claims 1-19 were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-29 of U.S. Patent No. 6,720,187 (Bedingham et al.). Upon an indication of otherwise allowable subject matter and in the event this rejection is maintained, Applicants will provide an appropriate response.

Information Disclosure Statements

Applicants note that several of the items on the returned 1449 forms were not initialed, and included handwritten notes stating "No Copies Provided."

Response

Page 2 of 4

Serial No.: 10/808,124

Confirmation No.: 4531

Filed: 24 March 2004

For: MULTI-FORMAT SAMPLE PROCESSING DEVICES, METHODS AND SYSTEMS

Applicants submit herewith a Supplemental Information Disclosure Statement herein listing the references that were not initialed on the 1449 forms mailed on July 9, 2004, October 22, 2004, and February 16, 2006 and copies of the documents listed therein. As such, Applicants respectfully request an initialed copy of the Supplemental Information Disclosure Statement to be included in the Office Action written in reply to this response.

The 35 U.S.C. § 102 Rejection

Claims 1-19 were rejected under 35 U.S.C. § 102(e) as being anticipated by Kellogg et al. (U.S. Patent No. 6,143,248). This rejection is respectfully traversed.

At the outset, Applicants do not concede that Kellogg et al. is prior art and respectfully reserve the right to swear behind this document at a later date. In the interest of advancing prosecution of this application, however, Applicants will address this rejection on its merits:

For a claim to be anticipated under 35 U.S.C. § 102(e), each and every element of the claim must be found in a single prior art reference (M.P.E.P. §2131). Applicants respectfully submit that Kellogg et al. fails to teach each and every element of claims 1-19 as required for anticipation.

Independent claims 1, 6, 10, 13, and 17 recite, a sample processing device including, *inter alia*, a rectangular body and a plurality of process arrays, wherein the output chambers of the process arrays of the plurality of process arrays are arranged in a rectilinear grid array. Further, independent claims 1, 6, 10, and 13 further recite that the input chambers of the plurality of process arrays are arranged in rectilinear grid array.

Kellogg et al. describes centrifugal rotor having, *inter alia*, entry ports (A), fluid chambers (E), and overflow chambers (D) arranged in a circular arc on a circular disk. See *Kellogg et al.*, column 21, line 26; Figures 11A, 11D. In fact, it is noted in the Office Action that "[t]he Office maintains all of the elements taught by Kellogg et al. are arranged in a circular arc around the disk axis as shown in figure 12." *Office Action*, February 27, 2007, page 3. As

Response

Page 3 of 4

Serial No.: 10/808,124

Confirmation No.: 4531

Filed: 24 March 2004

For: MULTI-FORMAT SAMPLE PROCESSING DEVICES, METHODS AND SYSTEMS

acknowledged, Kellogg et al. does not teach output and input chambers of the process arrays of the plurality of process arrays that are arranged in a rectilinear grid array as recited in the pending claims.

In addition, Kellogg et al. also does not teach a sample processing device including a rectangular body as recited in each of the independent claims subject to this rejection. Kellogg et al. describes a "circular shaped disk." *Kellogg et al.*, column 21, line 26. It is noted in the Office Action that "[t]he claimed 'rectangular body' has been read on the taught rotor." *Office Action*, February 27, 2007, page 3. Applicants respectfully submit that this assertion cannot, however, be maintained. Kellogg et al. never teaches a rotor in any form other than a circular shaped disk.

For at least the above reasons, Applicants respectfully submit that claims 1, 6, 10, 13, and 17 are not anticipated by Kellogg et al. Applicants further submit that dependent claims 2-5, 7-9, 11, 12, 14-16, 18, and 19 are patentable for the reasons presented above with respect to independent claims 1, 6, 10, 13, and 17. Reconsideration and withdrawal of this rejection are, therefore, respectfully requested.

If this rejection is to be maintained, direction to the portion of Kellogg et al. describing that the rotor may be rectangular is requested. If this rejection is to be maintained based on inherency, then Applicants respectfully request that the requirements for a rejection based on inherency be met (i.e., some basis in fact and/or technical reasoning as to why Kellogg et al. inherently teaches the missing features).

Response

Page 4 of 4

Serial No.: 10/808,124

Confirmation No.: 4531

Filed: 24 March 2004

For: MULTI-FORMAT SAMPLE PROCESSING DEVICES, METHODS AND SYSTEMS

Summary

It is respectfully submitted that the pending claims are in condition for allowance and notification to that effect is respectfully requested. The Examiner is invited to contact Applicants' Representatives, at the below-listed telephone number, if it is believed that prosecution of this application may be assisted thereby.

Respectfully submitted

By

Mueiting, Raasch & Gebhardt, P.A.


P.O. Box 581415

Minneapolis, MN 55458-1415

Phone: (612) 305-1220

Facsimile: (612) 305-1228

26 JULY 2007
Date

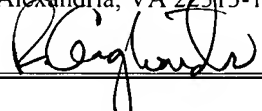
By: 
Kevin W. Raasch
Reg. No. 35,651
Direct Dial (612) 305-1218

CERTIFICATE UNDER 37 CFR §1.10:

"Express Mail" mailing label number: EV 201 878 909 US

Date of Deposit: July 26, 2007

I hereby certify that the Transmittal Letter and the paper(s) and/or fee(s), as described hereinabove, are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR §1.10 on the date indicated above and is addressed to: **Mail Stop Amendment**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

By:  Name: Rachel Engelhardt
